



FUNDRAISING AGREEMENT FOR PAYROLL GIVING FUNDRAISING SERVICES

WEAREGOODGIVING LTD

and

[insert charity name]

This agreement (the "Agreement") is made on [insert date] between:

- (1) **WEAREGOODGIVING LTD** (trading as: GoodPAYE), a company with company number 13256341 and whose registered address is: 85 Great Portland Street, London, W1W 7LT ("**GoodPAYE**");
- (2) **PayCaptain.org**,
- (3) [insert charity name], a charitable company with company number [insert company number] and charity registration number [insert charity number] (England and Wales) and [insert charity number] (Scotland) and whose registered address is: [insert charity address] (the "Charity")

(each a "Party" and together "the Parties").

Background

- (A) The Charity intends to raise funds for its charitable purposes. GoodPAYE is a professional fundraising organisation (as defined in the Charities Act 1992) engaged in fundraising.
- (B) The Charity wishes to contract with GoodPAYE to raise funds via Payroll Giving (under the tax effective schemes introduced under the Finance Act 1986).
- (C) GoodPAYE has agreed to provide the Services set out herein.

Commercial Term Sheet

These terms form part of the agreement.

Start Date:

GoodPAYE Donor Recruitment Fees:

ONE-OFF DONATIONS	
Value	Donor Recruitment Fee (One-Off)
£n	<p>£(n * 0.2) up to a maximum fee of £500, where “n” is the amount of the one-off donation.</p> <p>Example 1: if one-off donation is £100, so the Donor Recruitment Fee is £(100 * 0.2) = £20.</p> <p>Example 2: if one-off donation is £5,000, then above formula results in £(5,000 * 0.2) = £1,000, so the Donor Recruitment Fee is £500.</p> <p>The initial Fee Multiplier in this case (subject to adjustment in accordance with the terms of this Agreement) is 0.2.</p>

NEW REGULAR DONORS:	
Monthly Value	Donor Recruitment Fee (One-off)
£n	<p>£(n * 10) up to a maximum fee of £500, where “n” is the amount of the regular donation.</p> <p>Example 1: if monthly value of donations is £10,</p>

the Donor Recruitment Fee is $\pounds(10 * 10) = \pounds100$.

Example 2: if monthly value of donations is $\pounds70$,
then above formula results in $\pounds(70 * 10) = \pounds700$,
so the Donor Recruitment Fee is $\pounds500$.

The initial Fee Multiplier (subject to adjustment in accordance with the terms of this Agreement) in this case is 10.

UPGRADES FROM REGULAR DONORS:

Monthly Value of upgrade amount	Donor Recruitment Fee
£n	<p>£(n * 10) up to a maximum fee of £500, where “n” is the amount of the increase in the regular donation.</p> <p>Example 1: If monthly donations are increased from £10 to £15:</p> <ol style="list-style-type: none"> 1. The monthly value of the upgrade amount is £15 - £10 = £5. 2. The Donor Recruitment Fee is £(5 * 10) = £50. <p>Example 2: If monthly donations are increased from £70 to £150:</p> <ol style="list-style-type: none"> 1. The monthly value of the upgrade amount is £150 - £70 = £80. 2. The above formula results in £(80 * 10) = £800. 3. The Donor Recruitment Fee is therefore £500. <p>The initial Fee Multiplier (subject to adjustment in accordance with the terms of this Agreement) in this case is 10.</p>

Ongoing Donor Fee:

ONGOING REGULAR DONORS	
Monthly Value	Ongoing Donor Fee
£n	£[] up to a maximum fee of £[], where “n” is the amount of the donation made by the Ongoing Donor each month

	<p>Example 1: if monthly value of donations is £, the Donor Recruitment Fee is £[] = £[].</p> <p>Example 2: if monthly value of donations is £, then above formula results in £(*) = £</p> <p>so the Ongoing Donor Fee is £.</p> <p>The Fee Multiplier in this case is [].</p>
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Agreed and accepted:

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For and on behalf of GoodPAYE

Agreed and accepted:

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For and on behalf of Charity

Agreed and accepted:

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For and on behalf of PayCaptain.org

PART A - INTERPRETATION

1. Definitions and Interpretation

1.1 In this Agreement, the following words and phrases shall have the following meanings:

“APGO”	The Association of Payroll Giving Organisation;
“APGO Code”	The Code of Conduct of the Association of Payroll Giving Organisations (http://www.apgo.org.uk).
“Base CPI Month”	The CPI index for month and year in which the Start Date falls.
“Brand Guidelines”	The Charity’s guidelines for the use of the Trade Marks and Charity Copyright Material as set out in Schedule 2 of this Agreement or as updated and amended from time to time;
“Charity Copyright Material”	All art work, copy and any other work capable of being subject to copyright provided by the Charity or produced or created by GoodPAYE at the specific request of the Charity. This does not include GoodPAYE Copyright Material;
“Charity Guidelines”	any guidance provided to GoodPAYE by the Charity from time to time, including but not limited to the Charity’s Vulnerable Person’s Policy;
“Charity Representative”	A person in the Charity assigned as the first person to be contacted by GoodPAYE from time to time;
“Charity Trade Marks”	The trademarks belonging to the Charity as set out at Schedule 1 of this Agreement;
“Code of Fundraising Practice”	The Fundraising Regulator’s Code of Fundraising Practice as updated and amended from time to time;
“Direct Marketing”	Means any unsolicited written or verbal contact of any nature for the purposes by the Charity promoting its charitable aims or objectives; or soliciting charitable donations;
“Data Controller”	Has the meaning defined as “controller” in Article 4 (7) of the GDPR;
“Data Protection Requirements”	Means (i) the Data Protection Act 2018, (ii) the GDPR and the Electronic Communications Data Protection Directive (2002/58/EC), as each of them forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union

(Withdrawal) Act 2018, (iii) the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2426/2003) (as amended) and (iv) any other data protection laws and regulations, orders and any codes of practice, guidelines and recommendations issued by the Information Commissioner's Office or any replacement or equivalent body, as amended and in force from time to time;

“Donor”	means (i) an individual who has submitted a Donor Instruction via GoodPAYE's website and commits to payment of a donation to the Charity by way of Payroll Giving or (ii) an employer which commits to payment of a donation to the Charity;
“Donor's Employer”	An employer that has a contract with an HM Revenue & Customs registered Payroll Giving Agency and has received permission from an employee authorising it to deduct charitable donations from an employee's pay before tax, on a regular basis and make payments to the Payroll Giving Agency;
“Donor Information”	means the Donor's name, address, employer, donation amount and frequency, and unique ID (e.g. National Insurance number or employee reference number). Where GoodPAYE has obtained Donor Marketing Consent, this will further include the contact details (e.g. e-mail address and telephone number) for which the Donor has provided their consent;
“Donor Marketing Consent(s)”	Any consent compliant with Data Protection Requirements that GoodPAYE collects from a Donor for the Charity to send them Direct Marketing by, as specified by the Donor, post, telephone, e-mail and/or SMS in the future;
“Donor Instruction”	An authorisation by a Donor via GoodPAYE's website to make a donation to the Charity by way of Payroll Giving or any other payment type, and includes (for the avoidance of doubt) an instruction by an employer to make a payment of a donation to the Charity;
“Donor Recruitment Fee(s)”	The fee (in an amount specified in the Term Sheet, which might relate to one-off donation or regular donations) payable to GoodPAYE in respect of each Enrolment, subject to adjustment from time to time pursuant to the Terms;
“Enrol/Enrolment/Enrolled”	The completion by a Donor of a Donor Instruction;

“Fundraisers”	the professional fundraisers who are employed or contracted by GoodPAYE and who recruit Donors on behalf of the Charity as part of the Services;
“GDPR”	the UK General Data Protection Regulation (UK GDPR);
“Intellectual Property Rights”	all intellectual property rights wherever in the world arising, whether registered or unregistered (and including any application), including copyright, know-how, confidential information, trade secrets, business names and domain names, trademarks, service marks, trade names, database rights and all rights in the nature of unfair competition rights or rights to sue for passing off;
“Institute Group”	the Special Interest Group for payroll giving at the Chartered Institute of Fundraising;
“GoodPAYE Copyright Material”	Promotional material not specifically produced for the purpose of the Charity but that may include the Charity’s name or trademark together with other charities;
“GoodPAYE Platform”	Means the GoodPAYE website, supporting technology platform and all associated functionality;
“Ongoing Donor”	A Donor Enrolled pursuant to this Agreement who makes a donation to the Charity in a month and has made regular donations to the Charity for at least 10 calendar months prior to that month;
“Ongoing Donor Fee”	The fee (in an amount specified in the Term Sheet) payable to GoodPAYE from time to time in respect of each Ongoing Donor, subject to adjustment from time to time pursuant to the Terms;
“Payroll Giving”	Payment of a regular donation to the Charity by way of deduction by an employer of the payment from an employee’s pay before tax in accordance with the tax effective schemes introduced under the Finance Act 1986;
“Payroll Giving Agency”	The Payroll Giving Agency contracted by the Donor’s Employer to administer the Payroll Giving scheme, which at all times must be approved under and fulfil the requirements of sections 713 - 715 of the Income Tax (Earnings and Pensions) Act 2003, the Charitable

	Deductions (Approved Schemes) Regulations SI 1986/2211 and all other applicable law or regulation;
“Personal Data”	Has the meaning defined in Article 4(1) of the GDPR;
“Review Date”	means 1 st April every calendar year;
“Services”	The fundraising services to be rendered by GoodPAYE pursuant to this Agreement;
“Solicitation Statement”	a statement required to be made by a professional fundraiser under section 60 of the Charities Act 1992 (as amended) in accordance with clause 7.1.3 of this Agreement;
“Start Date”	The date that this Agreement starts on as set out in the Term Sheet;
“Term”	The duration of this Agreement, as set out in clause 2;
“Term Sheet”	The term sheet containing the key commercial terms agreed between the Charity and GoodPAYE and signed by both parties.
“Vulnerable Persons Policy”	The GoodPAYE vulnerable person policy (but only if set out at Schedule 3 of this agreement), as amended or updated from time to time.

- 1.2 References to clauses and Schedules are (unless otherwise provided) references to the clauses and schedules of this Agreement.
- 1.3 In the event and to the extent only of any conflict between the clauses and the Schedules, the clauses shall prevail.
- 1.4 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being made under it.
- 1.5 References to **“including”**, **“include(s)”** and **“in particular”** shall be deemed to mean respectively including without limitation and include(s) without limitation.

PART B – PayCaptain.org

- 1.6 Where for any part of the Term, PC.org is responsible for paying over donations to the Charity (but not otherwise) PC.org shall be a party to this Agreement during that time and have the obligations set out in this Part B.

1.7 If PC.org is a party to this Agreement, it shall provide the PGA Services referred to below, and in doing so shall:

- (a) act with all reasonable care and skill and in accordance with good industry practice;
- (b) not hold itself, or any of its employees or agents out as being employees or agents of the Charity;
- (c) do nothing to bring the Charity into disrepute in any manner whatsoever nor shall it act in any way which is detrimental to the reputation of the objects or work of the Charity; and
- (d) abide by the APGO Code at all times.

1.8 The PGA Services are as follows:

- (a) accept donations remitted by the Employer to a segregated payroll giving account and distribute them to the charities nominated in accordance with a correctly completed Donor Instruction either: (i) within 35 days; or (ii) for a nominated charity to which the PGA has not made a payment within the previous 12 months, within 60 days;
- (b) provide to each Donor on request a certificate of the amounts which the PC.org has paid to the Donor's nominated charities and such other information as is required under Payroll Giving arrangements;
- (c) under no circumstances return to a Donor's Employer or any Donor any sums duly deducted from the pay of a Donor under the terms of the Payroll Giving arrangement which are due to be paid to the Charity.

2. **Term**

2.1 This Agreement shall take effect on and from the Start Date and shall remain in force until the expiry of three months' written notice served by GoodPAYE on the Charity or vice versa, or until this Agreement is terminated earlier in accordance with clause 16.

SECTION A – PROFESSIONAL FUNDRAISING SERVICES

3. GoodPAYE Donor Recruitment

- 3.1 GoodPAYE shall raise funds for the Charity by promoting the Payroll Giving scheme and collect and disburse those funds via the GoodPAYE Platform and Paycaptain.org (or other Payroll Giving Agency, if relevant).
- 3.2 This process is accomplished through digital, physical, virtual and face-to-face tools, resources and services, including but not limited to the provision of web copy, emails, posters, digital and physical marketing materials, webinars, presentations, and in-person visits to employer locations to talk to staff face to face, any such activities to be delivered with prior agreement of those employers in the employer's absolute discretion.
- 3.3 Donors will be encouraged to enrol in Payroll Giving by completing a Donor Instruction via the GoodPAYE Platform, where they can find out more about the Charity and other charities, and manage their Donor Information, Donor Instructions and Donor Marketing Consents.

4. Donor Recruitment Fees; Ongoing Donor Fee

- 4.1 In consideration for the provision of the Services by GoodPAYE, the Charity shall (where applicable) pay to GoodPAYE the Donor Recruitment Fee and the Ongoing Donor Fee.
- 4.2 The Donor Recruitment Fee and Ongoing Donor Fee are exclusive of VAT, which shall be paid by the Charity (against provision of a valid VAT invoice issued by GoodPAYE) in addition, if applicable.
- 4.3 GoodPAYE shall invoice the Charity for the Donor Recruitment Fees weekly in arrears in respect of Donors recruited in the immediately preceding week.
- 4.4 GoodPAYE shall invoice the Charity for the Ongoing Donor Fees monthly in arrears in respect of Donors who are or become Ongoing Donors during that month.
- 4.5 Invoices will be paid by the Charity to GoodPAYE within 30 days of the date of the invoice to the Charity.
- 4.6 Donor Recruitment Fees and Ongoing Donor Fees apply in respect of each Enrolled Donor (but only where applicable, in the case of Ongoing Donor Fees) and if the Donor chooses to support more than one charity within their Donor Instruction, the fees invoiced by GoodPAYE to the Charity will only relate to the part of the Donor Instruction/ongoing donation that is for the benefit of the Charity.
- 4.7 In the event the Charity's payment of GoodPAYE's invoice is received by GoodPAYE after the 21st day following the invoice date, and the invoice is not subject to dispute by the Charity in good faith, interest on the invoice amount, calculated daily at the annual rate of 4% above the Bank of England's base rate shall apply. If payment of the invoice is not received within 7 business days, GoodPAYE may at its discretion terminate this Agreement in accordance with the terms of clause 18.2.3

4.8 In addition to CPI adjustment pursuant to clause 6, GoodPAYE shall be entitled to increase Donor Recruitment Fees and Ongoing Donor Fees once in any calendar year by notice in writing to the Charity thirty days in advance of the increase taking effect. The Charity shall be entitled to terminate the Agreement following receipt of such notice by giving three months' notice in writing to GoodPAYE, if it does not wish to accept the fee increases.

5. **CPI Adjustment**

5.1 Donor Recruitment Fees and Ongoing Donor Fees will be reviewed on each Review Date and (if applicable) shall be adjusted for the effects of inflation.

5.2 The Donor Recruitment Fees and Ongoing Donor Fees for a period from and including a Review Date to and including the day before the next following Review Date shall be determined by applying the indexed Fee Multiplier in place of the previously applicable Fee Multiplier.

5.3 The indexed Fee Multiplier is found by multiplying the Fee Multiplier in force immediately prior to a Review Date by the index value of the CPI for the month in which that Review Date falls, then dividing the product by the index value of the CPI for the Base CPI Month.

5.4 GoodPAYE shall calculate the indexed Fee Multiplier and shall give the Charity written notice of that calculation (including a full calculation) and the resulting indexed Donor Recruitment Fees and Ongoing Donor Fees (including a full calculation) as soon as they have been ascertained.

5.5 If the indexed Fee Multiplier has not been calculated by GoodPAYE and notified to the Charity on or before a Review Date, the Donor Recruitment Fees and Ongoing Donor Fees payable from that Review Date shall continue at the rate payable immediately before that Review Date. No later than five working days after the revised Fee Multipliers and related fees are notified by GoodPAYE to the Charity, the Charity shall pay the shortfall (if any) between the amount of fees that it has paid for the period from the Review Date to GoodPAYE's notification of the increased fees and the amount that would have been payable had the increased fees been notified on or before that Review Date.

5.6 Time shall not be of the essence for the purposes of this clause.

5.7 GoodPAYE and the Charity shall endeavour, within a reasonable time, to agree an alternative mechanism for setting the Donor Recruitment Fees and the Ongoing Donor Fees if either:

5.7.1 GoodPAYE or the Charity reasonably believes that a change in how CPI is calculated would fundamentally alter the calculation of the indexed Fee Multipliers and in accordance with this clause, and has given notice to the other party of this belief; or

5.7.2 it becomes impossible or impracticable to calculate the indexed Fee Multipliers and increased fees in accordance with this clause.

5.8 This alternative mechanism may (where reasonable) include, or consist of, substituting an alternative index for the CPI. In default of agreement between GoodPAYE and the Charity on an alternative mechanism for indexing the Fee Multipliers, the provisions in this clause shall continue to apply.

6. Donor Instructions and Enrolment Details

- 6.1 GoodPAYE will collect completed Donor Instructions from Donors via GoodPAYE's website and will make the Donor Information and any Donor Marketing Consents contained therein available to the Charity via GoodPAYE's website within 5 working days of Enrolment.
- 6.2 Unless GoodPAYE has obtained Donor Marketing Consent from a Donor, and notified the Charity of such, the Charity shall not process Donors' Personal Data for the purposes of Direct Marketing (unless the Donor is already a supporter of the Charity who has previously provided their consent to receive marketing from the Charity, in which case these restrictions under this clause shall not apply).
- 6.3 GoodPAYE shall provide the Charity with access to data collected via the GoodPAYE Platform, to enable the Charity to reconcile Donor Instructions with the donations received by the Charity.
- 6.4 GoodPAYE shall provide any Donor Instructions for Donations generated by GoodPAYE in favour of the Charity to the payroll departments of the Donor's Employer on a weekly basis via GoodPAYE's website.

7. Delivery of the Services

- 7.1 In promoting and providing the Services GoodPAYE shall:
- 7.1.1 provide the Services with all reasonable care and skill and in accordance with good industry practice;
- 7.1.2 not hold itself, or any of its employees, sub-agents or Fundraisers out as being employees or agents of the Charity but is permitted to term itself as "working on behalf of the Charity" or "representing the Charity";
- 7.1.3 display a link to the Solicitation Statement on all Donor Instructions to comply with the Charities Act 1992 (as re-enacted or modified) and in accordance with the requirements for making Solicitation Statements under the Code of Fundraising Practice. In all cases, a link to the disclosure Solicitation Statement MUST be visible on the Donor Instruction form before a Donor Instruction is submitted online via GoodPAYE's website by the Donor;
- 7.1.4 ensure that the Fundraisers deal appropriately and respectfully with all members of the public and in particular that the Professional Fundraisers act in accordance with the relevant sections of the Fundraising Code of Practice;
- 7.1.5 not undertake any fundraising techniques or methods which amount to:
- (a) unreasonable intrusion into a person's privacy;
- (b) unreasonably persistent approaches for the purpose of soliciting or otherwise procuring money or other property;
- (c) placing undue pressure on a person to give money or other property;

- 7.1.6 ensure that identification badges will be worn by employees, contractors or sub-agents of GoodPAYE when representing the Charity; these badges must be worn to be visible at all times whilst on an employer's premises;
- 7.1.7 do nothing to bring the Charity into disrepute in any manner whatsoever nor shall it act in any way which is detrimental to the reputation of the objects or work of the Charity;
- 7.1.8 abide by the APGO Code at all times;
- 7.1.9 act to uphold the Charity's ethos and values as expressed within the materials to support Fundraiser training;
- 7.1.10 only accept Donations which are made by Payroll Giving - GoodPAYE shall not collect payments from Donors made in any other manner;
- 7.1.11 only use materials and literature that have either been provided by the Charity, or where provided by GoodPAYE, have either been reviewed and approved by the Charity or appear in substantially the same form as the materials and literature that have been approved by the Charity (acting reasonably at all times);
- 7.1.12 make available upon request, the results of any audits of fundraising activities carried out from time to time by members of the Institute Group. This will include shadowing and training audits as per clause 9.4; and
- 7.1.13 GoodPAYE shall (and shall ensure that its suppliers and subcontractors shall):
 - (a) not in any way be involved directly or indirectly with any activity, practice or conduct in breach of any anti-bribery and/or anti-corruption regulations including, but not limited to, the UK Bribery Act 2010; and
 - (b) comply with all applicable anti-slavery and human trafficking laws, statutes and regulations from time to time in force, including, but not limited to, the Modern Slavery Act 2015.

8. Fundraiser Training and Monitoring

- 8.1 GoodPAYE may recruit and train Fundraisers to recruit new Donors on behalf of the Charity in accordance with the terms of this Agreement and will take any necessary remedial action it deems appropriate against non-compliant Fundraisers.
- 8.2 GoodPAYE shall not commence training programmes with Fundraisers unless the Charity (acting reasonably) has given its consent to the format and outline content of that training programme.
- 8.3 GoodPAYE will deliver an initial training session and subsequent refresher training sessions for the Fundraisers. This training will include training on fundraising regulatory compliance (including but not limited to the relevant sections of the Code of Fundraising Practice, protection of vulnerable persons, and avoiding placing undue pressure on a person to donate) and the Charity's work and charitable aims.
- 8.4 During the Term of this Agreement, the Charity shall monitor GoodPAYE's compliance with the terms of this Agreement. GoodPAYE will co-operate with good faith and in a timely

manner to ensure that the Charity can carry out its monitoring activities effectively. Such monitoring will include, but not be limited to:

- 8.4.1 subject to reasonable notice (10 working days as a minimum), the Charity and/or the Institute Group attending training sessions provided by GoodPAYE to its Fundraisers;
- 8.4.2 subject to GoodPAYE obtaining the relevant employer's consent, a representative from the Charity and/ or the Institute Group to shadowing Fundraisers during a payroll giving promotion, not more than four times a year;
- 8.4.3 GoodPAYE sharing with the Charity any relevant reports produced by the Institute Group, or by other organisations and APGO approved parties, upon request;
- 8.4.4 reviewing, upon request, the materials and training logs used to train the Fundraisers;
- 8.4.5 meeting face-to-face or arranging review calls to discuss compliance with this Agreement and, if appropriate, to discuss and agree any adjustments required to any of GoodPAYE's policies and/or procedures to improve standards regarding the protection of vulnerable people and the general public from unreasonable intrusion on privacy, unreasonably persistent approaches to donate and putting people under undue pressure to donate; and
- 8.4.6 providing all reports and information reasonably required by the Charity to allow the Charity to comply with the Charities (Protection and Social Investment) Act 2016, which requires the Charity to disclose certain fundraising standards information in its annual reports.

9. **Sub-Contracting**

- 9.1 GoodPAYE may, after giving written notice to the Charity, assign, delegate or subcontract any or all of its obligations under this Agreement to any third party; provided that no such action shall relieve GoodPAYE of liability to the Charity for any breach of its obligations under this Agreement.

10. **Information and Records**

- 10.1 Throughout the period of this Agreement and for at least a year thereafter, GoodPAYE undertakes to keep proper records of all data and correspondence and administration relating to this Agreement in a clear and legible form and where applicable in the manner specified from time to time in the APGO Code.
- 10.2 GoodPAYE shall grant to the Charity and its officers or duly authorised agents at any time during office hours on not less than one week's written notice to GoodPAYE all necessary access to inspect all or any of the records or other items held by GoodPAYE including records kept in a digital form which relate to this Agreement. The Charity may take such copies of such documents and records as it thinks fit at its expense.

11. **Trade Mark Usage**

- 11.1 The Charity grants to GoodPAYE the non-exclusive revocable right to use the Charity Trade Marks as set out in Schedule 2 of this Agreement (or if none is specified, any of the Charity's registered marks) solely for the duration of the Term and for the purposes of carrying out the Services.

- 11.2 GoodPAYE shall:
- 11.2.1 Only use the Charity Trade Marks as in accordance with the Brand Guidelines or otherwise stipulated from time to time by the Charity and shall in particular observe all directions given by the Charity as to colours and size of representations of the Charity Trade Marks;
 - 11.2.2 only use the Charity Trade Marks for the purposes authorised in this Agreement and, in particular, shall not use the Trade Marks in any way that would allow or risks allowing them to become generic, lose their distinctiveness, become liable to mislead the public, or be materially detrimental to or inconsistent with the good name, goodwill, reputation and image of the Charity;
 - 11.2.3 not adopt or use any trade mark, symbol or device that incorporates or is confusingly similar to, or is a simulation or colourable imitation of the Charity Trade Marks or unfairly competes with them;
 - 11.2.4 not at any time, whether during or after the Term, apply anywhere in the world to register any trade marks identical to or so nearly resembling the Charity Trade Marks as to be likely to deceive or cause confusion;
 - 11.2.5 not at any time use the Charity Trade Marks as part of any corporate, business or trading name or style;
 - 11.2.6 not register or be involved in the registration or use of any domain name incorporating the Trade Marks or a mark that is colourably similar to the Charity Trade Marks; and
- 11.3 GoodPAYE shall not, by virtue of this Agreement, obtain or claim any right, title or interest in or to the Charity Trade Marks, except the rights of use as are specifically set out in this Agreement, and acknowledges and agrees that the benefit of all use by it of the Charity Trade Marks shall at all times be to the benefit of the Charity.

12. **Charity Copyright Material**

- 12.1 The copyright and other Intellectual Property rights in all Charity Copyright Material shall vest in the Charity which for the avoidance of doubt includes pictures or logos used for the purposes of this Agreement.
- 12.2 All artwork of and hard copy of such Charity Copyright Material shall be handed over by GoodPAYE to the Charity within 30 days of the termination of this Agreement and at any time on request of the Charity during the Term.
- 12.3 GoodPAYE warrants and represents to the Charity that any copyright works or documents created by it pursuant to this Agreement or by its employees or contractors or agents will not infringe the Intellectual Property Rights of any third party whatsoever.

13. **Data Protection**

- 13.1 GoodPAYE and the Charity are both separate Data Controllers in respect of the Donor's Personal Data.

- 13.2 Both parties agree to process any Personal Data under the Agreement in accordance with the Data Protection Requirements.
- 13.3 GoodPAYE shall process the Personal Data only to the extent, and in such a manner, as is necessary for the purposes of providing the Services and associated administrative functions and shall not process the Personal Data for any other purpose.
- 13.4 The Charity will process a Donor's Personal Data only:
- 13.4.1 if required by the Charity, for the purpose of verifying (i) the identity of the Donor and (ii) whether the Donor is an existing supporter of the Charity; and
- 13.4.2 if the Donor has provided Donor Marketing Consent, for the purpose of sending Direct Marketing to the Donor in accordance with the terms of the Donor Marketing Consent, unless the Donor is already a supporter of the Charity and the Charity has a valid legal basis for processing their Personal Data for other purposes.
- 13.5 GoodPAYE shall ensure that Donors are provided with a privacy notice which is compliant with the Data Protection Legislation when the Donor first provides their Personal Data.
- 13.6 The Charity shall ensure that Donors are provided with a privacy notice which is compliant with the Data Protection Legislation when the Charity receives Donors' Personal Data from GoodPAYE.
- 13.7 If either party receives any complaint which relates directly or indirectly to the processing of the Personal Data by the other party or to the other party's compliance with the Data Protection Requirements it shall notify the other party within 2 days and it shall provide the other party with all reasonable co-operation and assistance in relation to any such complaint, notice or communication.
- 13.8 The Parties agree to provide reasonable assistance to each other as is necessary to comply with any rights that are exercised by a Donor under the Data Protection Requirements, including but not limited to, a subject access request, or right to erasure.
- 13.9 Without prejudice to clause 14.2, both Parties shall:
- 13.9.1 implement appropriate technical and organisational measures to safeguard the security of Personal Data;
- 13.9.2 retain the Personal Data for no longer than necessary for the purpose(s) for which it is processed; and
- 13.9.3 ensure that persons authorised to process the Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality, and have undergone training on the Data Protection Requirements.
- 13.10 GoodPAYE shall only transfer any Personal Data, including Donor Information, by using secure methods.
14. **Warranties and limitation of liability**

- 14.1 GoodPAYE warrants and shall ensure that:
- 14.1.1 it observes all relevant rules of law, by-laws and regulations in relation to the discharge by it of its obligations under this Agreement, and in particular will comply in all respects with the provisions of the Charities Act 1992 and the Charities (Protection and Social Investment) Act 2016, (as amended or replaced from time to time, or any statutory requirements or modifications thereof);
 - 14.1.2 it will abide by the APGO Code of Conduct and the Code of Fundraising Practice (as amended or replaced from time to time, or any statutory requirements or modifications thereof);
 - 14.1.3 it will abide by the Charity Guidelines and the Chartered Institute of Fundraising's guidance on Treating Donors Fairly and Fundraising with People in Vulnerable Circumstances;
 - 14.1.4 it will abide by an ethical fundraising policy and its Policy for Dealing with Vulnerable Donors and (as amended or replaced from time to time);
 - 14.1.5 it will abide by the Data Protection Requirements (as amended or replaced from time to time, or any statutory requirements or modifications thereof); and
 - 14.1.6 if it is subject to an investigation by a regulatory body or authority at any time, it will notify the Charity without delay and in any event within two (2) days of becoming aware of such investigation.
- 14.2 A party's liability for damages for (a) fraudulent misrepresentation; (b) death or personal injury arising from the negligence of the other party; (c) any other liability which is not lawfully permitted to exclude or limit; (d) any breach of the Data Protection Requirements is not excluded and is limited to the level that GoodPAYE is insured.
- 14.3 Any other liability (whether for breach of this Agreement, negligence or otherwise) of GoodPAYE shall be limited in aggregate to an amount equal to one times all fees paid by the Charity during the period of 12 months ending on the date of the claim.
- 14.4 GoodPAYE shall remain fully responsible for any sub-contractors, agents or suppliers used to provide the Services and shall ensure that any sub-contractors comply with the relevant terms of this Agreement.

15. **Complaints**

- 15.1 In respect of any complaints received by GoodPAYE in relation to the Charity and/or the Services, GoodPAYE shall:
- 15.1.1 remain in full compliance with the complaints guidelines of the Chartered Institute of Fundraising and the Fundraising Regulator (or any body that replaces it);
 - 15.1.2 ensure it and its Representatives deal with all complaints received promptly in accordance with GoodPAYE's Complaints Policy;
 - 15.1.3 notify the Charity as soon as reasonably practical of the complaint and, in any event, within 2 working days;

- 15.1.4 include all relevant details relating to the complaint in the notice; and
- 15.1.5 consult with the Charity on the steps to be taken to resolve the complaints, including determining which party is best placed to respond to the complainant, it being acknowledged and agreed that any complaints specifically about the Charity shall be managed by the Charity directly with the complainant where the Charity has rights to do so and GoodPAYE shall provide the Charity with all reasonable co-operation and information to help resolve such complaint.
- 15.2 GoodPAYE shall maintain a list of any complaints made to GoodPAYE (including complaints made directly to the Fundraisers) and shall make this list available to the Charity on a monthly basis, and more frequently if requested by the Charity. This list will include the following information:
 - 15.2.1 the date of the complaint;
 - 15.2.2 how the complaint was received;
 - 15.2.3 details of the complaint; and
 - 15.2.4 any action taken by GoodPAYE to resolve the complaint.
- 15.3 GoodPAYE, or its directors, officers, servants or agents, whether acting pursuant to this Agreement or otherwise, shall not engage in any act or omission prejudicial to the reputation of the Charity.
- 16. **Suspension**
 - 16.1 The Parties may, by mutual written agreement, temporarily suspend the Services for a specified period of time.
 - 16.2 The Charity may suspend the Services for a maximum period of 14 days, where GoodPAYE is subject to an investigation by a regulatory body or authority or where the Charity has reasonable cause to suspect wrongdoing or a breach of this Agreement by GoodPAYE and wishes to carry out its own investigation into GoodPAYE's practices. To initiate the suspension the Charity must serve written notice on GoodPAYE specifying the suspension period and the reason for such suspension.
 - 16.3 Where the Services are suspended in accordance with clause 17.2, GoodPAYE shall cease the recruitment of new Donors on behalf of the Charity as soon as reasonably possible.
 - 16.4 Immediately following suspension of Services, GoodPAYE shall run a full audit of its processes and procedures in respect of that Charity within 7 business days and will make recommendations to the Charity as to the changes it proposes to make to deal with matters giving rise to the suspension of Services.
 - 16.5 The Charity shall have 7 business days in which to approve the changes. If the changes are approved or if no reply is received, the suspension of Services will be terminated at the end of that period and provision of the Services will recommence.

- 16.6 If the changes are not approved, GoodPAYE shall have 7 business days to make alternative proposals to the Charity, which shall in turn have 7 business days to approve or disapprove of the alternative proposals. If the proposals are approved or if no reply is received, the suspension of Services will be terminated at the end of that period and provision of the Services will recommence. If the proposals are not approved, GoodPAYE shall have the right either to recommence Services or to terminate this Agreement with immediate effect.
- 16.7 GoodPAYE shall use reasonable endeavours to recommence fundraising for the Charity as soon as is reasonably possible following the date on which the suspension of the Services comes to an end.
- 16.8 The suspension of the Services under this clause 17 shall not otherwise affect any of the continuing obligations specified in this Agreement and shall not relieve GoodPAYE or the Charity from fulfilling its obligations accrued outside of the period of suspension.
- 16.9 No right of suspension for the Charity shall arise as a result of GoodPAYE delivering training programmes with fundraisers, the terms of which have been approved under clause 9.2.
17. **Termination**
- 17.1 The Charity may terminate this Agreement without prejudice to its other remedies by notice in writing to GoodPAYE with immediate effect if GoodPAYE:
- 17.1.1 or its directors, officers, servants or agents, whether acting pursuant to this Agreement or otherwise, engages in any act or omission seriously prejudicial to the reputation of the Charity;
- 17.1.2 is in breach of its obligations under this Agreement or in material breach of a warranty and fails to remedy such breach (where such breach is capable of remedy) within fourteen days of receipt of written notice specifying the breach and requiring it to be remedied;
- 17.1.3 ceases or threatens to cease to carry on business or is unable to pay its debts or goes into liquidation or has an administrative receiver or receiver and manager or administrator appointed of its assets or enters into a voluntary arrangement with its creditors or suffers any similar insolvency process or process which affords it protection from its creditors; in which case the charity would be immediately informed;
- 17.1.4 undergoes a change of control within the meaning of the term as set out in section 1124 of the Corporation Tax Act 2010;
- 17.1.5 is unable to perform the Services or any of its obligations under this Agreement for a total period of more than 60 days in any calendar year, including where the reason for such non-performance is outside of the reasonable control of GoodPAYE.
- 17.2 GoodPAYE may terminate this Agreement without prejudice to its other remedies by notice in writing to the Charity with immediate effect if the Charity:
- 17.2.1 or its directors, officers, servants or agents, whether acting pursuant to this Agreement or otherwise, engages in any act or omission seriously prejudicial to the reputation of GoodPAYE;

- 17.2.2 is in material breach of its obligations under this Agreement or in material breach of a warranty and fails to remedy such breach (where such breach is capable of remedy) within fourteen days of receipt of written notice specifying the breach and requiring it to be remedied;
 - 17.2.3 fails to pay an invoice issued by GoodPAYE in accordance with the provisions of clause 5; or
 - 17.2.4 ceases or threatens to cease to carry on business or is unable to pay its debts or goes into liquidation or has an administrative receiver or receiver and manager or administrator appointed of its assets or enters into a voluntary arrangement with its creditors or suffers any similar insolvency process or process which affords it protection from its creditors; in which case the charity would be immediately informed.
- 17.3 Termination of this Agreement shall be without prejudice to any existing rights or claims of the Parties, and shall not relieve GoodPAYE or the Charity from fulfilling its obligations accrued prior to termination.

18. **Consequences of Termination**

- 18.1 Upon termination of this Agreement however arising:
- 18.1.1 All provisions of this Agreement which in order to give effect to its meaning need to survive its termination shall remain in full force and effect after termination.
 - 18.1.2 GoodPAYE shall immediately cease to use the Charity Copyright Material. GoodPAYE shall, if requested to do so by the Charity, forthwith destroy or at the Charity's option deliver up to the Charity (and shall observe the Charity's reasonable directions in delivering up) all remaining stocks of any Charity Copyright Material. This will not apply to GoodPAYE Copyright Material which may be used until the stock runs out, unless the Charity requests that its Trade Marks are no longer used by GoodPAYE.
- 18.2 GoodPAYE shall do nothing after the expiry or termination of this Agreement that might lead any person to believe that GoodPAYE is in any way connected with the Charity except in the case of GoodPAYE Copyright Material, whereby, (unless the Charity requests otherwise pursuant to clause 19.1.2), its name and Trade Marks may continue to be used by GoodPAYE for fundraising purposes until the stock terminates. In such cases GoodPAYE will continue to allow Donors to donate to the Charity, but shall not give any representation that it has any contractual relationship with the Charity.

19. **Non-exclusivity**

GoodPAYE may enter into a Fundraising Agreement with several charities. The Charity may enter into agreements with other professional fundraisers who engage in Payroll Giving and other fundraising activities.

20. **Maximum Numbers**

The Charity, may at its discretion, give four months' written notice to GoodPAYE specifying a maximum number of Donor Enrolments that will be permitted within any particular accounting period. If the Charity exercises its rights in this regard, GoodPAYE may (by giving three months' notice in accordance with clause 2.1) terminate this Agreement.

21. **Location**

GoodPAYE will represent the Charity and seek to recruit Donors throughout the United Kingdom.

22. **Confidentiality**

22.1 The Parties undertake that they shall, and shall procure that their employees and agents shall keep secret and treat as confidential, documents and information relating to this Agreement and the affairs of the other Party and shall keep all such documents and information secure and protected against theft, damage, loss or unauthorised access and shall not disclose any such documents or information to any third party except as is required by law. In particular, but without limitation, this particularly applies to details of employers and sites visited by GoodPAYE.

22.2 The obligations of this clause shall survive the variation, renewal or termination of this Agreement but shall not apply to any information that:

22.2.1 has come into the public domain through no fault of the recipient;

22.2.2 was in the possession of the recipient or known by it prior to receipt from the disclosing party;

22.2.3 is independently developed by the recipient without access to such information;

22.2.4 is trivial or obvious; or

22.2.5 is required to be disclosed pursuant to any statutory or regulatory authority.

23. **Notices**

23.1 Any notice given under this Agreement must be in writing and sent or delivered by hand, first class post, or email to the other Party at the address set out at the beginning of this Agreement (or such other address notified for this purpose by that Party). Any notice sent to the Charity shall be addressed to the Charity Representative.

23.2 Notices shall be deemed to have been given as follows:

23.2.1 If delivered by hand - when deposited at the appropriate address;

23.2.2 If sent by first class post - 48 hours after posting; and

23.2.3 If sent by email - on transmission to the correct address during normal business hours (9.00 am to 5.00 pm Monday to Friday and excluding Bank Holidays) (or where sent outside of normal business hours at 10.00 am on the next business day).

24. **General**

24.1 The Parties acknowledge and agree that this Agreement together with any documents referred to in it constitutes the entire agreement and understanding between the Charity and GoodPAYE and supersedes any previous agreement between them.

- 24.2 Without prejudice to clause 18.1.5, neither party shall be liable for any delay to perform its obligations under this Agreement insofar as the delay or failure is due to any event beyond the control of that party.
- 24.3 No failure or delay on the part of either of the Parties to exercise any right or remedy under this Agreement shall be construed or operate as a waiver thereof. No waiver by any Party of a breach or a default hereunder shall be effective unless in writing and signed by both Parties and by the Charity's Legal Department on behalf of the Charity and any such waiver shall not be deemed to be a waiver of any subsequent breach or default of the same or similar nature.
- 24.4 Rights and remedies provided in this Agreement are cumulative and are not exclusive of any rights or remedies provided by law.
- 24.5 No amendment of the terms of the Agreement shall be valid or binding unless made by prior written agreement between the Parties and signed by their duly authorised representatives.
- 24.6 To the extent permitted by law all provisions of the Agreement shall be severable, and no provision shall be affected by the invalidity or unenforceability of any other provision.
- 24.7 Nothing in this Agreement shall constitute or be deemed to constitute a partnership between the Parties hereto or constitute or be deemed to constitute any Party as agent of any other for the purpose whatsoever and no Party shall have authority or power to bind the other or to contract in the name of the other in any way or for any purpose.
- 24.8 A person who is not a party to this Agreement shall have no rights under the Contract (Rights of Third Parties) Act 1999.
- 24.9 This Agreement and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) are governed by and construed in accordance with the laws of England.
- 24.10 The parties irrevocably agree that the courts of England have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

Signed by **Tony Charalambides**)

For and on behalf of **WEAREGOODGIVING LTD (trading name GoodPAYE), PayCaptain.org.**)

Date:

Signed by **[insert name]**)

for and on behalf of **[insert charity name]**)

Date:)

Schedule 1 – Charity Trademarks

[TBC by Charity]

Schedule 2 – Charity Brand Guidelines

[TBC by Charity]

Schedule 3 – GoodPAYE Vulnerable Persons Policy

[TBC by Charity]